



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY NORTHERN REGIONAL OFFICE

Matthew J. Strickler
Secretary of Natural Resources

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Director

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STATE WATER CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO HOLTZMAN CORPORATION

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.34:20, between the State Water Control Board and Holtzman Corp., for the purpose of resolving certain violations of the State Water Control Law and the applicable regulations.

SECTION B: Definitions

Unless the context indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
2. "Containment and cleanup" means abatement, containment, removal and disposal of oil and, to the extent possible, the restoration of the environment to its existing state prior to an oil discharge.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
5. "Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying or dumping.

6. "Location" means the facility, land, road, storm drain(s) or state water(s) where the oil discharge occurred: on business Route 7 at 39258 E. Colonial Highway in front of the Hamilton Service Center, Hamilton, Loudoun County, Virginia.
7. "Holtzman " means Holtzman Corp., a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Holtzman Corp. is a "person" within the meaning of Va. Code § 62.1-44.3.
8. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
9. "Oil" means oil of any kind and in any form, including, but not limited to, petroleum and petroleum by-products, fuel oil, lubricating oils, sludge, oil refuse, oil mixed with other wastes, crude oils and all other liquid hydrocarbons regardless of specific gravity. *See* Va. Code §62.1-44.34:14.
10. "Operator" means any person who owns, operates, charters, rents or otherwise exercises control over or responsibility for a facility or a vehicle or vessel.
11. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.
12. "Person" means any firm, corporation, association or partnership, one or more individuals, or any governmental unit or agency thereof.
13. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
14. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code. Article 11 (Va. Code §§ 62.1-44.34:14 through 62.1-44.34:23) of the State Water Control Law addresses discharge of oil into waters.
15. "State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.
16. "Va. Code" means the Code of Virginia (1950), as amended.
17. "VAC" means the Virginia Administrative Code.
18. "Vehicle" means any motor vehicle, rolling stock or other artificial contrivance for transport whether self-propelled or otherwise, except vessels.

SECTION C: Findings of Fact and Conclusions of Law

1. Holtzman is a person and operator of a vehicle that transports oil, in the form of gasoline, to customers.

2. On 11 October 2017, DEQ received notification from the Virginia Department of Emergency Management of a discharge of oil, in the form of gasoline, in/at 39258 E. Colonial Highway in front of the Hamilton Service Center.
3. The notification indicated that on 11 October 2017 a Holtzman vehicle, laden with approximately 8,000 gallons of gasoline was struck by a private passenger vehicle while the tanker was backing across Route 7 into Hamilton Service Center for a fuel delivery. The accident resulted in a valve failure on the tanker and a discharge of gasoline. DEQ staff responded to the incident. The gasoline entered a ditch line along Route 7 and a culvert pipe, which conveyed storm water under Route 7 to an ephemeral stream, a state water. The ephemeral stream is part of an unnamed tributary to Crooked Run. Oil and sheen were observed in the ephemeral stream. Sheen/oil was not observed on Crooked Run.
4. Response personnel offloaded the tanker and determined 903 gallons of gasoline had been discharged. Response personnel deployed the necessary containment and cleanup measures. Affected soil areas were excavated resulting in approximately 136 tons for proper disposal.
5. Va. Code § 62.1-44.34:18 prohibits the discharge of oil into or upon state waters, lands, or storm drain systems that violate applicable water quality standards or cause a film or sheen upon or discoloration of the surface of the water.
6. On 1 December 2017, the Department issued Notice of Violation No. W2017-12-N001 to the Holtzman for a discharge of oil to land and state waters.
7. On 17 December 2017, Holtzman submitted an Initial Abatement Measures Report (IAMR) and on 31 January 2018 submitted a Site Characterization Report (SCR). The IAMR made the following conclusions:
 - a. One residence detected petroleum odors in the basement. Holtzman's contractor performed abatement activities at the residence for the petroleum odors.
 - b. a business reported petroleum odors in the front office area. The building was monitored for vapors. The petroleum odors later dissipated and appeared related to rainfall events.
 - c. Another residence had unusual odors emanating from the well water. The well was tested for volatile organic compounds (VOCs) resulting in above detection limit results for benzene, toluene, ethylbenzene, and xylene (BTEX) and Methyl tert-butyl ether (MTBE). At the request of DEQ, Holtzman provided carbon filtration to treat the well water. Subsequent sampling of the water well on 16 March 2018 for BTEX and MTBE showed below detection limit results.
8. On 27 February 2018, Department staff met with representatives of Holtzman to discuss the accident, discharge, emergency response, containment and clean-up, and future actions.

9. Based on the results of 11 October 2017 site inspection, and the IAMR and SCR submitted 17 December 2017 and 31 January 2018, respectively, the State Water Control Board concludes that Holtzman has violated Va. Code § 62.1-44.34:18, which prohibits the discharge of oil into or upon state waters, lands, or storm drain systems, as described in paragraphs C(1) through C(8), above.
10. In order for Holtzman Corporation to complete its return to compliance, DEQ staff and representatives of Holtzman Corporation have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 62.1-44.34:20, the Board orders Holtzman Corp., and Holtzman Corp. agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$7,740.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.
3. Reimburse DEQ \$1,199.11 for oil discharge investigative costs within 30 days of the effective date of the Order;

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Holtzman Corp. shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Petroleum Storage Tank Fund (VPSTF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Holtzman Corp. shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Holtzman Corp. for good cause shown by Holtzman Corp., or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.

2. This Order addresses and resolves only those violations specifically identified in Section C of this Order and in NOV No. W2017-12-N001 dated 1 December 2017. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Holtzman Corp. admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Holtzman Corp. consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Holtzman Corp. declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Holtzman Corp. to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Holtzman Corp. shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Holtzman Corp. shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Holtzman Corp. shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;

- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

- 9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
- 10. This Order shall become effective upon execution by both the Director or his designee and Holtzman Corp.. Nevertheless, Holtzman Corp. agrees to be bound by any compliance date which precedes the effective date of this Order.
- 11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after Holtzman Corp. has completed all of the requirements of the Order;
 - b. Holtzman Corp. petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Holtzman Corp..

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Holtzman Corp. from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

- 12. Any plans, reports, schedules or specifications attached hereto or submitted by Holtzman Corp. and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
- 13. The undersigned representative of Holtzman Corp. certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Holtzman Corp. to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Holtzman Corp..

14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

15. By its signature below, Holtzman Corp. voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 11th day of September, 2018.



Thomas Faha Regional Director
Department of Environmental Quality

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Holtzman Corp. voluntarily agrees to the issuance of this Order.

Date: 7-2-18 By: *William B. Holtzman* *Pres.*
(Person) (Title)
Holtzman Corp.

Commonwealth of Virginia
City/County of Shenandoah

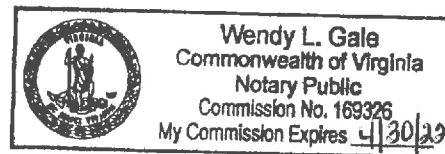
The foregoing document was signed and acknowledged before me this 2nd day of
July, 2018, by William B. Holtzman who is
President of Holtzman Corp., on behalf of the corporation.

Wendy L. Gale
Notary Public

169326
Registration No.

My commission expires: April 30, 2022

Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

Holtzman Corp. shall:

1. Investigate and perform containment and cleanup measures at the location until DEQ notifies Holtzman Corporation that remediation is no longer necessary.
2. Continue to supply carbon filtration to treat the well water to the effected residence until notified by DEQ that treatment is no longer necessary.

Contact

Unless otherwise specified in this Order, Holtzman Corp. shall submit all requirements of Appendix A of this Order to:

VA DEQ–NRO
Attention: Petroleum Remediation Division
13901 Crown Court
Woodbridge, VA 22193